

SENATE BILL 1297

By Bowling

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 24; Title 29; Title 39 and Title 40, relative to
the Stop Guilt by Accusation Act.

WHEREAS, the general assembly finds that the first amendment of the United States constitution asserts that the government "shall make no law abridging the freedom of the press"; and

WHEREAS, freedom of the press in the United States is not absolute and is subject to certain restrictions, such as defamation law; and

WHEREAS, the state has a compelling interest to compel the press to promote the objective truth for the sake of the viability of democracy; for the safety, health, and welfare of our communities; for keeping with the spirit of the due process clause of the fourteenth amendment; and for stopping the press from serving as a slander machine; and

WHEREAS, there has been a growing trend for individuals to abuse process and maliciously prosecute someone they disagree with ideologically by filing spurious cases and controversies in various government venues for ulterior motives, knowing that certain segments of the media that align with their ideology would serve as an accomplice by engaging in a form of defamation in-kind by selectively reporting on the facts of the original case but not on the actual outcome in actions where the petitioner received less relief than originally sought, which cultivates an unjust prejudicial conviction in the court of public opinion, causing the cause to be shunned, avoided, and marginalized, and the media outlet guilty of defamation in-kind to the point that it unduly decreases the quality of life for the accused; and

WHEREAS, the pattern of media outlets only reporting on the facts of a case and controversy but not the outcome has incentivized the abuse of our institutions of justice to the

point that it threatens to erode the community's trust in the integrity of different government institutions while giving license to unaccountable members of the press to abuse their positions with impunity by trampling civil liberties; and

WHEREAS, the state has a compelling interest to compel the press to promote the truth, because without truth, there is no freedom—freedom comes from the truth; and

WHEREAS, the purpose of this act is to prevent unchecked media outlets from acting as slander machines by engaging in defamation in-kind, abusing the general public, and degrading the integrity of our institutions of justice through selective reporting on cases and controversies that cultivate false narratives to the point that it unduly injures the accused by eroding their civil liberties, causing them to be shunned and avoided by the general public due to a cloud of suspicion of wrongdoing that does not exactly align with the original allegations or the relief provided in a case and controversy lodged before a government body; protect the integrity of the press and encourage good character of the members of the press corps; deter malicious prosecution, abuse of process in general, the overcharging of defendants by prosecutors, and the seeking of excessive relief in the original cause complaint by plaintiffs; promote a mercy-centric justice system because no human is perfect; and deter convictions in the court of public opinion that do not necessarily align with convictions by our institutions of justice; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 29, is amended by adding Sections 2 through 7 as a new chapter.

SECTION 2. This chapter is known and may be cited as the "Stop Guilt by Accusation Act."

SECTION 3. As used in this chapter:

(1) "Abuse of process":

(A) Means the act of bringing and following through with a civil or criminal action or case and controversy for a purpose known to be different from the purpose for which the action was designed; and

(B) Includes proceedings that are brought for ulterior reasons other than sought on the surface;

(2) "Accused":

(A) Means a person who is blamed for a wrongdoing before a civil court, ethics commission, criminal court, administrative court, or a military tribunal; and

(B) Includes a person who has been arrested or formally charged by an indictment, information, or presentment with a crime or ethical violation;

(3) "Case and controversy" means a civil, criminal, or ethical proceeding before a governmental, state, federal, or administrative court; ethics commission; military tribunal; or legislative body;

(4) "Court of public opinion" means the general community consensus or opinion;

(5) "Defamation" is a tort that occurs when:

(A) A party publishes a statement; and

(B)

(i) The party has knowledge that the statement is false and defaming to the other; or

(ii) The party has reckless disregard for the truth of the statement or is negligent in failing to ascertain the truth of the statement;

(6) "Defamation in-kind" is the failure of a media outlet to report on the outcome of a case and controversy after the media outlet reported on the initial filings of a case and controversy in which the petitioner ended up receiving less relief than originally

sought or could have obtained, which could reasonably result in a conviction in the court of public opinion by placing the accused in a false light that causes the accused to be avoided, marginalized, and shunned by the general public;

(7) "False light" is a tort that occurs when:

(A) The false light in which another was placed would be highly offensive to a reasonable person, and

(B) The actor had knowledge of or acted in reckless disregard as to the falsity of the publicized matter and the false light in which the other would be placed;

(8) "Malicious prosecution" means initiating a criminal prosecution or civil suit or other proceedings against another party with malice and without probable cause;

(9) "Media outlet":

(A) Means a publication or broadcast program that provides news and feature stories to the public through various distribution channels;

(B) Includes newspapers, magazines, radio stations, television stations, and certain websites on the internet that are part of the press; and

(C) Does not mean a person who does not work as a member of the press as a profession or who does not regularly engage in the business of reporting;

(10) "Mugshot" means an official photograph of a person's face taken after the accused suspect is arrested for an alleged criminal violation;

(11) "Petitioner" means a person or government body who presents a petition to a government authority in respect of a particular cause; and

(12) "Press" means individuals who work for newspapers, magazines, television, websites, and radio outlets.

SECTION 4.

(a) A media outlet shall provide equal coverage in comparable time, place, magnitude, prominence, scale, and manner in the same format as the original reporting of a case and controversy, if:

(1) The media outlet reported on the facts of a case and controversy and the final verdict provided less relief against the accused than originally sought by the petitioner or less than could have been obtained by the petitioner; and

(2) The accused or the authorized agent of the accused sends an electronic or written notice demand to an authorized agent of the media outlet within twenty (20) days after the verdict or outcome, demanding that the facts surrounding the final and actual decision or outcome be reported and published as a follow-up to the original reporting.

(b) In the written notification described in subsection (a), the accused or the authorized agent of the accused must include:

(1) The date and source of the first reporting by the media outlet;

(2) A short description of the original allegations, the original relief sought by the petitioner, or the amount of relief that was sought;

(3) A short description of the final outcome and the relief actually awarded, if any;

(4) The location of the venue where the case and controversy was resolved and the docket number of the case and controversy, if assigned; and

(5) An acknowledgment that the positions asserted in the notice demand are declared under oath and under the penalty of perjury pursuant to § 39-16-702 and 28 U.S.C. § 1746.

(c) In the notice demand described in subsection (b), the accused or the authorized agent of the accused may include:

(1) A photograph of the accused that the accused authorizes the media outlet to use at the media outlet's discretion;

(2) Links to or a hard copy of the original coverage published by the media outlet;

(3) A demand to take down any unflattering photographs or mugshot of the accused that were used in the original publication; and

(4) Any other facts or pertinent information that could be relevant.

(d) If a media outlet reports on the facts of a case and controversy and displays the mugshot of the accused, and the accused is acquitted, enters into a plea of no contest, or receives an outcome more favorable than originally sought by the petitioner or available to the petitioner, then the media outlet shall:

(1) Take down or remove the mugshot from any digital publication, if possible; and

(2) Not display the mugshot in any follow-up publication that reports on the actual outcome of the case and controversy and shall only display images that the accused has authorized the media outlet use.

(e) If the result of a civil trial is settled under the terms of a private settlement agreement, then the accused may alert the media outlet that the case and controversy was settled.

SECTION 5.

(a) After receiving the notice demand by the accused described in subsection (a) of SECTION 4, a media outlet that reported on the facts of the case and controversy prior to the resolution of the case or controversy must comply with the notice demand

within ten (10) days by publishing a follow-up story that reports on the actual outcome. The accused has the burden of proof at a civil trial to show that the notice was timely served on the media outlet and met the requirements of subsection (b) of SECTION 4.

(b) If the media outlet fails to comply with the notice demand within ten (10) days, the accused may file suit within one (1) year from the date of non-compliance and may seek the following relief in the court of competent jurisdiction against the media outlet:

- (1) Statutory damages of ten thousand dollars (\$10,000);
- (2) Attorney's fees and costs;
- (3) Actual damages; and
- (4) Other forms of equitable and injunctive relief.

(c) If multiple media outlets fail to comply with a notice demand, then the media outlets may be added as co-defendants in a consolidated case to conserve judicial economy.

(d) If the media outlet displayed the mugshot of the accused in the original publication as described in SECTION 4 in a digital format, then the accused may seek injunctive relief to have the media outlet remove the image.

SECTION 6.

(a) A media outlet is not subject to liability under this chapter if the media outlet:

- (1) Is known to publish satire or parody or admits that the media outlet is a fake news outlet that is purposed to traffic in fiction peddling for comedic or entertainment purposes;
- (2) Reports on the facts of the outcome in comparable time, place, magnitude, prominence, scale, and manner of the original publication prior to receiving the notice demand from the accused;

(3) Receives an untimely notice demand from the accused more than twenty (20) days after the date of the verdict; or

(4) Did not report on the case and controversy prior to the decision being reached.

(b) The petitioner has no standing under this statute to make a media outlet report on the outcome of a case and controversy regardless of the outcome. Neither the petitioner nor the accused have standing to compel a media outlet to report on the case and controversy after the case or controversy is filed.

(c) If a media outlet reported on a case or controversy involving one (1) or more felony charges and the accused was convicted or plead guilty to one (1) or more felony counts, then the accused lacks standing to enforce this chapter.

SECTION 7.

(a) An accused has the right to waive the accused's rights under this chapter as a part of a negotiated settlement.

(b) A court of competent jurisdiction shall not acknowledge the waiver of rights described in subsection (a) if there is evidence that the waiver was undertaken under coercion.

SECTION 8. This act takes effect July 1, 2021, the public welfare requiring it, and applies to claims brought on or after that date.